

**CHAPTER 26
JUDICIAL NOTICE**

TABLE OF CONTENTS

GENERAL	26-3
26.01 Judicial Notice of Findings of Facts and Orders.....	26-3
26.02 Rule of Evidence 201 – Judicial Notice of Adjudicative Facts.....	26-3
A. Scope of Rule	26-3
B. Kinds of Facts	26-3
C. When Discretionary	26-4
D. When Mandatory	26-4
E. Opportunity to be Heard.....	26-4
F. Time of Taking Notice	26-4

[This page intentionally left blank.]

	GENERAL PROCEDURE	AUTHORITY
26.01	JUDICIAL NOTICE OF FINDINGS OF FACTS AND ORDERS In addition to the judicial notice permitted under the Rule 201 of the Rules of Evidence (see section 26.02 below), the court, sua sponte or upon the motion of any party or the county attorney, may take judicial notice only of findings of fact and court orders in the juvenile protection court file and in any other proceeding in any other court file involving the child or the child's parent or legal custodian.	RJPP 3.02, subd. 3
26.02	RULE OF EVIDENCE 201 – JUDICIAL NOTICE OF ADJUDICATIVE FACTS A. SCOPE OF RULE. Rule 201 of the Rules of Evidence governs only judicial notice of adjudicative facts in civil cases. <i>Comment: The Comment to Rule of Evidence 201 provides as follows:</i> <i>"[Rule 201] is limited to judicial notice of 'adjudicative' facts, and does not govern judicial notice of 'legislative' facts. . . .</i> <i>Adjudicative facts generally are the type of facts decided by juries. Facts about the parties, their activities, properties, motives, and intent, the facts that give rise to the controversy are adjudicative facts. . . .</i> <i>Legislative facts involve questions of law and policy and normally are decided by the court. See Beaudette v. Frana, 285 Minn. 366, 372, 173 N.W.2d 416, 419, 420 (1969) where the court notices the effect which various courses of conduct might have upon the integrity of the marriage relationship. . . . "</i> B. KINDS OF FACTS. A judicially noticed fact must be one not subject to reasonable dispute in that it is either: <ol style="list-style-type: none"> 1. Generally known within the territorial jurisdiction of the trial court, or 2. Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. <i>Comment: The Comment to Rule of Evidence 201 provides as follows:</i> <i>"Minnesota has traditionally limited judicial notice of adjudicative facts to situations incapable of serious dispute."</i>	Minn. R. Evid. 201(a) Minn. R. Evid. 201(a) (Committee Comment) Minn. R. Evid. 201(b) Minn. R. Evid. 201(b) (Committee Comment)

	GENERAL PROCEDURE	AUTHORITY
	<p>26.02 Rule of Evidence 201 – Judicial Notice of Adjudicative Facts (continued)</p> <p>C. WHEN DISCRETIONARY. A court may take judicial notice, whether requested or not.</p> <p>D. WHEN MANDATORY. A court shall take judicial notice if requested by a party and supplied with the necessary information.</p> <p>E. OPPORTUNITY TO BE HEARD. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.</p> <p><i>Comment: The Comment to Rule of Evidence 201 provides as follows:</i> <i>“The opportunity to be heard is a mainstay of procedural fairness. This right is protected by the rule. If the limits imposed upon the judicial notice by subdivision (b) of this rule are properly observed, there should be relatively little controversy concerning the right to be heard. The shape of the hearing on the issue of judicial notices rests in the discretion of the trial judge.</i></p> <p>F. TIME OF TAKING NOTICE. Judicial notice may be taken at any stage of the proceeding.</p>	<p>Minn. R. Evid. 201(c)</p> <p>Minn. R. Evid. 201(d)</p> <p>Minn. R. Evid. 201(e)</p> <p>Minn. R. Evid. 201(e) (Committee Comment)</p> <p>Minn. R. Evid. 201(f)</p>